



DOCKET FILE COPY ORIGINAL
**The Independent
School District of Boise City**

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Boise, ID 83709

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RECEIVED & INSPECTED

SEP 12 2005

FCC - MAILROOM

7 September 2005

FCC
Office of the Secretary
445-12th Street SW
Washington DC 20554

RE: **APPEAL LETTER**
Boise City Independent Dist 1
Form 471 Application # 410686
Billed Entity # 142750
Funding Request # 1128540
CC Docket Nos. 02-6

Dear Sir:

We are appealing the Funding Request # 1128540 that was "Denied in Full" in the "Administrator's Decision on Appeal" Letter dated August 1, 2005 (copy attached). The letter indicated that the service was a prohibition under FCC Rules. The letter goes on to say that the FCC has not determined the eligibility of "dark fiber service." We believe that the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) erred in its interpretation of the substance of the arrangement that the District has with its communications systems provider, Idacomm.

Per the USAC "Eligible Services List" for 2005: "The provision of a wide area network communication service, **irrespective of technology**, when provided on a common carrier basis, is an eligible Telecommunications Service.

The Boise Independent School District is leasing a "wide area network" provided by a telecommunications provider (Idacomm). This network takes the exact same format logically as the network it replaced, that is, a network of leased point-to-point T-1 circuits from the local telecommunications company (Qwest), which was completely funded in prior years.

The District only has "exclusive access to WAN facilities" as it relates to the *signal* that we send between schools. We do not have exclusive access to the cables leased to us by Idacomm. In fact two of our schools are connected to the network through the use of Idacomm's wave division electronic equipment that divides the light to provide bandwidth to us and other customers on the same cable.

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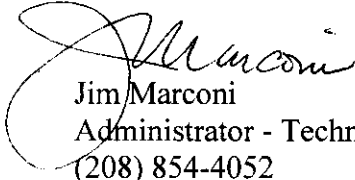
"Educating Today For a Better Tomorrow"

An Equal Opportunity Employer-Educator

During the RFP process, the District considered a variety of proposed solutions from vendors. The purpose of the RFP that resulted in the arrangement with Idacomm was to obtain greater bandwidth. The solutions presented to us included wireless, leased lines, lit fiber as well as dark fiber. We considered all types of solutions because we recognize that we would still control the *network signal* no matter what transport form it took. We determined that the dark fiber solution was the most cost effective over the long term. We will reduce our voice communication costs by over \$100,000 per year through the utilization of this network by running Voice over IP on this same network beginning with the 2005-06 school year.

We respectfully request that you reverse the "Denial" of this Funding Request and approve it for funding. Your prompt attention to this appeal is greatly appreciated.

Sincerely

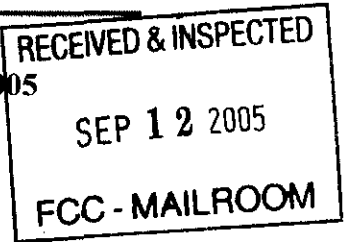
A handwritten signature in black ink, appearing to read "Jim Marconi", is written over the printed name and title.

Jim Marconi
Administrator - Technology
(208) 854-4052
Jim.Marconi@BoiseSchools.org



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2004-2005



August 01, 2005

Jim Marconi
The Independent School District of Boise City
8169 West Victory Road
Boise, ID 83709

Re: Applicant Name: BOISE CITY INDEPENDENT DIST 1
Billed Entity Number: 142750
Form 471 Application Number: 410686
Funding Request Number(s): 1128540
Your Correspondence Dated: April 01, 2005

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2004 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1128540
Decision on Appeal: **Denied**
Explanation:

- In your appeal letter, you indicate that you believe the SLD has erred in its interpretation of the arrangement between the District and Idacomm. You cite a portion of the Eligible Services List that states, "An integrated information service that provides Internet Access through a Wide Area network may be eligible for funding as Internet access if that offering is the most cost effective means of accessing the Internet." You explain that during the RFP process, the District considered several solutions including wireless, leased lines, "lit" fiber, as well as dark fiber. The District determined that the most cost effective solution over the long term was dark fiber, and that utilizing the dark fiber would cause a reduction in voice communication costs during future years. You request that this denial be reversed and the FRN be approved for funding.

- After careful consideration of the invoices and lease agreement provided to SLD during initial review of the Form 471 and the argument you raise on appeal, it is determined that while this service may be the most cost effective solution for your situation, that does not make it eligible. The service described in the invoices and lease agreement is dark fiber service. According to the Eligible Services List's entry for dark fiber service, "The FCC has not resolved whether unlit dark fiber is a telecommunications service. Pending resolution of this issue, it is not eligible for funding. Effective for Fund Year 2004 and later years." Therefore, even if it is the most cost effective solution for your school district, the product/service itself is not eligible for funding. Hence, you have not brought forth any information on appeal that demonstrates that the SLD's original decision was incorrect.
- Your Form 471 application included costs for the following ineligible products and services: leased dark fiber service. FCC rules provide that discounts may be approved only for eligible products and services. 47 C.F.R. §§ 54.502, 54.503. The USAC web site contains a list of eligible products and services. See the web site, www.sl.universalservice.org, Eligible Services List. FCC rules require that if 30% or more of an applicant's funding request includes ineligible products and services, the funding request must be denied. 47 C.F.R. § 54.504(c)(1). 100% of your funding request was for ineligible products and services. Therefore, your funding request was denied. You did not demonstrate in your appeal that your request included less than 30% for ineligible products and services. Consequently, SLD denies your appeal.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or cancelled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company